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1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 18-23538-shl

4 - - - - - x

5 In the Matter of:

6

7 SEARS HOLDINGS CORPORATION, et al.,

8

9 Debtors.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 October 25, 2022

17 2:08 PM

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20

21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: A. VARGAS

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1 HEARING re Doc. #10618 Motion for Omnibus Objection to  
2 Claim(s) / Debtors' Forth-Eighth Omnibus Objection to Proofs  
3 of Claim (Reclassify Claims)

4  
5 HEARING re Doc. #10619 Motion for Omnibus Objection to  
6 Claim(s) / Debtors' Forth-Ninth Omnibus Objection to Proofs  
7 of Claim (Reclassify Claims)

8  
9 HEARING re Doc. #10620 Motion for Omnibus Objection to  
10 Claim(s) / Debtors' Fiftieth Omnibus Objection to Proofs of  
11 Claim (Reclassify Claims)

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25 Transcribed by: Sonya Ledanski Hyde

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Page 4

1 ALSO PRESENT TELEPHONICALLY:

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1 P R O C E E D I N G S

2 THE COURT: Good afternoon. This is Judge Sean  
3 Lane in the United States Bankruptcy Court for the Southern  
4 District of New York, and we're here this afternoon for  
5 hearing in Sears Holding Corporation Chapter 11 case. And  
6 the matters that are on, or the subject of a notice of  
7 agenda of matters that was filed with the docket, docket  
8 number 10687. So, we'll start as we always do by getting  
9 appearances, so let me find out who's here on behalf of the  
10 confirmed debtor.

11 MR. FAIL: Good morning -- or good afternoon, Your  
12 Honor. Garrett Fail, Weil, Gotshal & Manges on behalf of  
13 the debtors, here with my colleague virtually, Phil  
14 DiDonato.

15 THE COURT: All right.

16 MR. FAIL: And I believe Mr. (William Murphy),  
17 from M3 is also on the line, although it -- he might be  
18 (indiscernible).

19 THE COURT: All right, well let me find -- that's  
20 a good segway to find out who else is here, who wishes to  
21 make an appearance at this time. All right, the silence is  
22 deafening, so Mr. Fail, I think you may have the podium all  
23 to yourself.

24 MR. FAIL: Thanks very much, and thanks for taking  
25 the time this afternoon to fit us into your calendar, and

1 welcome to the Sears docket. By way of background, you may  
2 know, Your Honor, we filed these cases over four years ago  
3 on October 15th, 2018. At the time, Sears and Kmart and our  
4 affiliates had about 700 stores and 68,000 employees. The  
5 company entered with a goal of selling substantially all of  
6 the debtor's assets as a going concern on an expedited  
7 timeline.

8 In February of 2019, on that fast timeline, the  
9 debtors closed a sale of substantially all of their assets.  
10 The debtors quickly pivoted to negotiating with constituents  
11 and working to formulate a Chapter 11 plan. The Chapter 11  
12 was confirmed on the one-year mark on October 15th, 2019,  
13 and since that time, Judge, the debtors have been working to  
14 reconcile the administrative secured and priority claims  
15 that were asserted against them, make payments on  
16 administrative claims that haven't been paid prior to the  
17 confirmation, and pursue avoidance actions to increase  
18 recoveries that would be available for distribution.

19 And the regular litigations that were commenced  
20 and pursued by constituents that were set up, it was  
21 essentially a creditor's committee counsel, and Trustees  
22 that were set up to pursue other litigation against the  
23 insiders and other parties. Ultimately, in September of  
24 this year a short while ago, Judge (Drain) entered an order  
25 approving a settlement -- a global settlement that brought

1 into the debtor's estates approximately 180 million dollars  
2 and will allow the Chapter 11 plan to go effective.

3 We filed a notice, I think earlier this month  
4 estimating that the effective date would occur around the  
5 end of this month. And what's before you today, Your Honor  
6 mentioned the agenda that was filed at docket 10687, our  
7 number of omnibus objections that help clear the path to  
8 reduce reserves in a disputed claims reserve for claims that  
9 were filed asserting administrative secured priority claims  
10 but that aren't entitled to such relief. I can say, you  
11 know, I wish I could say that this -- these were the last,  
12 Judge, that we'll bring before you. I would note that  
13 they're uncontested today, wherever there was a response  
14 where parties felt that they wanted to be heard, we pulled  
15 them from the order and we'll set a hearing date at a time  
16 that works with Your Honor's calendar, and we'll be  
17 efficient as we've tried to be to include them and kind of  
18 address them all together.

19 We -- the omnibus objections before you today have  
20 a common theme. In general, they're all claims filed by  
21 individuals. These individuals typically also asserted  
22 claims relating to retiree life insurance. Earlier in the  
23 Chapter 11 case, Judge (Drain) approved a settlement  
24 agreement pursuant to 1114 that set aside a certain amount  
25 of funds to be allocated for certain plan participants that

1 passed within a certain period of time. There was a retiree  
2 committee formed, professionals engaged that did a very  
3 thorough review of all of the claims that had been asserted.

4 Judge (Drain) entered an order on the 46th omnibus  
5 objection allowing approximately 260, 270 claims that will  
6 share in distribution on the effective date -- on or about  
7 the effective date in those proceeds. Judge (Drain) also  
8 entered an order, the 47th omnibus objection disallowing a  
9 large number of participants claims that, you know, were not  
10 entitled to priority pursuant to the retiree settlement or  
11 otherwise.

12 We thought we had captured them all, but in, you  
13 know, being very thorough and scrubbing the claims register  
14 and dockets, we've uncovered additional claims that had been  
15 asserted but that not entitled to priority amounts. There  
16 are three objections before you today, the debtor's 48th,  
17 49th, and 50th. As I mentioned, we filed certificates of no  
18 objections, we had heard from a large number of these  
19 parties, so we know that the motions have probably been  
20 served, and we request that Your Honor enter an order  
21 granting the objections to make clear that there's no  
22 reserve that needs to be held for admin secured priority  
23 asserted claims.

24 We'll probably be filing some other objections to  
25 do some cleanup in the future, once the plan goes effective



1     there are other provisions that will address claims filed  
2     against multiple debtors for the same amount, so we've kind  
3     of eliminated the need to burden the Court's time. That,  
4     but there may be some additional dupes -- duplicates or  
5     other things that we'll do some cleanup with you, and then  
6     kind of as a preview of other things to come, there have  
7     been a number of motions or objections where the debtors  
8     held back going forward to kind of pursue as liquidity was  
9     tight, and the future of the cases were, you know, not  
10    determined.

11             Now that you know, in following the hopefully  
12    upcoming effective date, we can help clear the rest of the  
13    docket for you, and we'll work with your chambers to  
14    schedule some matters including those that are pro se and  
15    others that kind of have just been held in advance will  
16    continue, obviously, to consider the cost benefit and work  
17    additionally for the benefit of the remaining stakeholders.  
18    But we hope that you know, we hope to close out the matter  
19    before you as quickly as we can.

20             THE COURT: All right.

21             MR. FAIL: I'm obviously happy to answer any  
22    questions (indiscernible).

23             THE COURT: So, I just wanted to clarify a couple  
24    things for the record, and the -- at there -- clarify maybe  
25    an overstatement, because they're in the motion, but just as

1 the new person to this particular party, so to speak. So,  
2 in identifying the treatment of these individuals versus --  
3 as compared to other individuals for purposes of the  
4 settlement dealing with retiree benefits, it sounds like  
5 there was consultation with the retiring committee and its  
6 counsel to essentially prop -- to get a -- come up with an  
7 appropriate list and figure out who should be having what  
8 claims, and that this objection is an outgrowth of those  
9 conversations and that due diligence?

10 MR. FAIL: Correct, Your Honor.

11 THE COURT: All right. And I didn't see a  
12 declaration, and I assume that's because the things that  
13 you're relying on are part of the record of these cases, and  
14 I can -- people say I can take judicial notice of the  
15 docket, but it's part of the case. So, and I assume that's  
16 why there's no declaration, because the settlement and the  
17 provisions that you recount are all part of that record.

18 MR. FAIL: That is correct, Judge, and in  
19 connection with the earlier objections, the Council for the  
20 Retiree Committee did file a declaration. Subsequently, he  
21 filed a final fee application in connection with, you know,  
22 kind of trying to get to clear things off of the docket.  
23 You know, we didn't want to go back and burden him again, we  
24 relied on that and consulted with -- yeah.

25 THE COURT: All right. So, I know I said that

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1 there seems to be (indiscernible) on more than one basis to  
2 expunge these claims and these claims objections and one is  
3 that, consistent with the settlement and how things are  
4 being treated in the settlement, and the second is that  
5 there's no other basis for priority treatment of any of  
6 these individual's claims. And so, for purposes of belt and  
7 suspenders, on that second part I assume you're in a  
8 position to just make a proffer that, having reviewed the  
9 claims that were filed for these individuals who were the  
10 subject of the current objections, the current claims  
11 objections, that there's no other basis that's been  
12 presented that entitles them to priority treatment.

13 MR. FAIL: Yes, Your Honor. Correct.

14 THE COURT: All right. Just -- it's a bit of belt  
15 and suspenders, like I said, there's more than one basis for  
16 the claim objection here, but just to sort of have those  
17 both squared away and all right. And so, with that  
18 evidentiary proffer, I'm happy to grant all of these claims  
19 objections as have been revised. It sounds like certain  
20 names have come off the list consistent with your  
21 discussions with people as being claims that should be  
22 reclassified because they're not entitled to priority  
23 secured or administrative treatment consistent with the  
24 settlement and the alternative.

25 And in addition, that they are not (indiscernible)

1 based on your proffer of reviewing the claims with the  
2 Retiree Committee and its counsel. So, I'm happy to grant  
3 the objections and I guess we have a hearing on November  
4 3rd, I wasn't sure if the debtors are participating in that  
5 hearing or not, or if that's other parties. I know there  
6 was -- it's a stay violation -- a motion, I believe.

7 MR. FAIL: There is a hearing, and we could add  
8 one item if -- we have one item that we can move forward  
9 with, I think that's a pro se matter that's been lingering  
10 on the docket if Your Honor has time, we can schedule -- we  
11 can add that one to the calendar if not, there's no  
12 emergency rush with it. We can defer.

13 THE COURT: If you could do it the way that  
14 everybody's got notice and so they can participate, yeah,  
15 I'm happy with adding that to the calendar, just reach out  
16 to (Missy Banks) to do that, but if everybody's ready to go  
17 and has notice of it and is -- has an ability to move  
18 forward with it, that's fine with me.

19 MR. FAIL: Excellent. We appreciate that, Judge.  
20 Thank you.

21 THE COURT: Absolutely. With that, anything else  
22 that we need to address here today?

23 MR. FAIL: No, Your Honor that's the agenda.

24 THE COURT: All right, thank you very much. Good  
25 to see you. Be well and looking forward to seeing you soon.

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MR. FAIL: Same Judge. Thank you. Bye bye.

(Whereupon these proceedings were concluded at

2:21 PM)

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I N D E X

RULINGS

	Page	Line
Claims Objections GRANTED	11	18

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing  
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: October 26, 2022